

High Voltage Proximity  
Regulations

N.J.A.C. 12-86

## TABLE OF CONTENTS

SUBCHAPTER 1.	GENERAL PROVISIONS	PAGE
12:186-1.1	Purpose	8
12:186-1.2	Scope	8
12:186-1.3	Validity	9
SUBCHAPTER 2.	DEFINITIONS	
12:186-2.1	Definitions	10
SUBCHAPTER 3.	VIOLATIONS	
12:186-3.1	Violations; generally	11
12:186-3.2	Warning sign requirement	12
SUBCHAPTER 4.	NOTIFICATION REQUIREMENTS	
12:186-4.1	Notification to power company/responsibility for safeguards	13
SUBCHAPTER 5.	ADMINISTRATIVE PENALTIES AND HEARINGS	
12:186-5.1	Penalties	14
12:186-5.2	Hearings	14

## CHAPTER 186 HIGH VOLTAGE LINES

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 12:186-1.1 Purpose

The purpose of this chapter is to provide reasonable precautions to be taken in proximity to high voltage lines in order to prevent accidents.

#### 12:186-1.2 Scope

(a) The provisions of the Act and this chapter shall not be applicable to the construction, reconstruction, operations and maintenance of overhead electrical conductors and their supporting structures and associated equipment by authorized and qualified electrical workers.

(b) The provisions of this Act and this chapter shall not be applicable to authorized and qualified employees of any person engaged in the construction, reconstruction, operation and maintenance of overhead electrical circuits or conductors and their supporting structures and associated equipment of:

1. Rail transportation systems; or
2. Electrical generating, transmission, distribution and communication systems.

(c) When applied to railway systems, the exceptions in (a) and (b) above shall be construed as permitting operation of standard rail equipment normally used in transport of passengers or freight, or both, and the operation of relief trains, or other equipment in emergencies, or in maintenance of way service, at a distance of less than six feet from any high voltage conductor of such railway system.

(d) The Act and this chapter shall prohibit normal repair or construction operations at a distance of less than six feet from any high voltage conductor by other than properly qualified and authorized persons or employees under the direct supervision of an authorized person who is familiar with the hazards involved in such activities, unless there has been compliance with all of the applicable safety and warning provisions of the

Act as embodied in this chapter.

(e) The Act and this chapter shall not be applicable to motor vehicle transportation across or along a public road or highway where such transportation is subject to the requirements of Title 39, Motor Vehicles and Traffic Regulations of the Revised Statutes, nor to motor vehicle transportation subject to the requirements of N.J.S.A.27:12B-1 et seq., which govern operations of New Jersey Highway Authority and N.J.S.A.27:23-1 et seq., which govern operations of the New Jersey Turnpike Authority.

### **12:186-1.3 Validity**

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decisions shall not affect the remaining portion of this chapter.

## SUBCHAPTER 2. DEFINITIONS

### 12:186-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Act" means High Voltage Proximity Act, N.J.S.A. 34:6-47.1 et seq.

"Commissioner" means the Commissioner of Labor or his duly authorized designee.

"Department" means the New Jersey Department of Labor.

"Division" means the Division of Workplace Standards in the New Jersey Department of Labor, CN 054, Trenton, New Jersey 08625-0054.

"High voltage lines" means electrical conductors installed above ground and having a voltage differential in excess of 750 volts between any pair of conductors or between any conductor and the ground. In the case of alternating current, the voltage shall be measured in R.M.S. value. This definition shall not include approved armored cable used to supply power to portable equipment and insulated power cables enclosed in approved metallic raceways.

"Shall" means a mandatory requirement.

## SUBCHAPTER 3.

### VIOLATIONS

#### 12:186-3.1 Violations; generally

(a) A violation of the Act shall occur when an employer or supervising agent of an employer shall require or permit an employee to participate in the operation, erection, transportation, handling, or storage of any tools, machinery, equipment, supplies, materials or apparatus or the moving of any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building, to come within six feet of a high voltage line; or

2. To participate in any activity which would cause the employee to come within six feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with such high voltage line, either by de-energizing such high voltage line and grounding it where necessary; or

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration thereof.

(b) No person shall operate, erect, transport, handle or store any tools, machinery, equipment, supplies, materials, or apparatus, or move any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building to come within six feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with such high voltage line either by de-energizing such high voltage line and grounding it where necessary; or

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration

thereof.

(c) In no case shall the required six foot clearance be provided by moving or displacing any conductor, except where the conductor is relocated temporarily pursuant to arrangements made with the owner or person in charge of the high voltage line.

#### **12:186-3.2 Warning sign requirement**

(a) It shall be a violation of the Act if an owner, agent, lessee, bailee, user or employer who is responsible for the operation of equipment capable of coming in contact with a high voltage line in the course of its operation, fails to post and maintain, in plain view of the operator on each piece of such equipment, a durable warning sign which shall be legible at a distance of 12 feet and which shall read: "Unlawful to operate this equipment within 6 feet of high voltage lines."

(b) The owner, agent, lessee, bailee, user or employer responsible for the operation of equipment shall also provide such warning signs prominently displayed at the work site in those areas adjacent to high voltage lines with which equipment could come in contact in the course of work activities.

(c) Such warning signs shall also be prominently displayed at all entryways to the worksite.

(d) The requirement that warning signs shall be posted shall not apply to railway equipment operating on a railway right-of-way in relation to high voltage conductors of such railway system under conditions set forth in N.J.A.C. 12:186-1.7.



## SUBCHAPTER 4.

### NOTIFICATION REQUIREMENTS

#### 12:186-4.1 Notification to power company/responsibility for safeguards

(a) Whenever any activity is to be performed which requires precautionary action under N.J.A.C. 12:186-3, employer, contractor or other person responsible for the activity shall:

1. Promptly notify the owner of person in charge of the high voltage line of the intended activity; and
2. Fully comply with and be responsible for the cost and completion of the precautionary action required under N.J.A.C. 12:186-3 before proceeding with such activity.



## SUBCHAPTER 5.

### ADMINISTRATIVE PENALTIES AND HEARINGS

#### 12:186-5.1 Penalties

(a) Any person violating any of the provisions of the Act shall be liable to a penalty of not less than \$500.00 nor more than \$5,000 for each cited violation.

(b) Any violation of the Act by an officer, agent or employee shall also be deemed to be a violation by the employer if the employer had knowledge of or actual control over the cause of such violation.

(c) Where the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

(d) The Commissioner, at his or her discretion, may compromise and settle any claim for a penalty imposed under the Act in such amount as he or she deems to be appropriate and equitable under all of the circumstances, including, but not limited to:

1. The past record of compliance with provisions of the Act by the alleged violator;
2. The degree of cooperation afforded to the Commissioner's representatives by the alleged violator in securing compliance with the provisions of the Act;
3. Whether the cited violation was willful in nature; and
4. Whether the cited violation resulted in injury or bodily harm.

#### 12:186-5.2 Hearings

(a) No penalty shall be levied pursuant to N.J.A.C. 12:186-5.1 unless the alleged violator is first provided with:

1. Notification of the violation;
2. The amount of the penalty to be imposed; and

3. An opportunity to request a formal hearing.

(b) A request for a formal hearing shall be made in writing and received within 21 calendar days following receipt of the notice of violation.

(c) All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) If a hearing is not requested, the notice of violation shall become the final order upon expiration of the 21 day period following the receipt thereof.

(e) The alleged violator may request the initiation of a settlement conference at the time that the request for a formal hearing is made. If a settlement conference is requested, or the Department determines that a settlement conference would be useful, the settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the request for a formal hearing.

(f) If a settlement is not agreed upon or no settlement conference is scheduled, a request for formal hearing shall be transmitted to the Office of Administrative Law (OAL).

(g) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.

(h) All payments shall be made payable to the Department of Labor in the form of a certified check or money order, or such other form as the Department deems suitable.

(i) Upon entry of the final order, the penalty imposed may be recovered with costs in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.



recipient or grantee in evaluating application(s) for funding in subsequent years.

(b) The Workforce Investment Board will monitor the effectiveness of the basic skills training provided under N.J.A.C. 12:23-9.3(b) to assess programmatic, management and financial performance of grants awarded by the Commissioner. The Workforce Investment Board will consider the past performance of a recipient or grantee in evaluating application(s) for funding in subsequent years.

#### 12:23-9.8 Limitations on administrative costs for service providers

Not more than 10 percent of the monies received by any service provider pursuant to this subchapter shall be expended on the costs of administration. Such costs of administration do not include the costs of the direct provision of training.

#### 12:23-9.9 Prohibition on use of funds

Supplemental Workforce Funds for Basic Skills shall not be spent on construction or purchase of facilities.

### SUBCHAPTER 10. RECORDS, REPORTS, AND PERFORMANCE

#### 12:23-10.1 Purpose

(a) The purpose of this subchapter is to set forth rules for collection of information on student enrollment, outcome, licensing, and credentialing that includes the use of the individual Social Security number. This information will be used for:

1. Developing the labor demand list for the Workforce Development Partnership Program and other employment and training programs;
2. Establishing standards for training and job placement;
3. Evaluating the effectiveness of programs and services under the State's workforce investment system; and
4. For other purposes as determined by the Commissioner.

#### 12:23-10.2 Scope

This subchapter shall apply to approved training or service providers and qualified agencies which oversee education and training at an approved training provider or issue an occupational license or credential.

#### 12:23-10.3 Reporting requirements

(a) Each provider shall maintain appropriate records and reports and make any records available upon request for monitoring or inspection by the Commissioner including:

1. A record for each student enrolled, including the student's name, Social Security number, address upon enrollment, and other information as required by the State Employment and Training Commission and/or the NJOICC;
2. A record of all direct, administrative and overhead expenses of the grantee related to the provision of employment and training services funded under this chapter, including matching costs;
3. Financial reports as may be required by the Commissioner;
4. Reports of the enrollments and outcomes in occupational training and basic skills programs that provide information pursuant to the performance requirements of this chapter; and
5. Any other information deemed appropriate by the Commissioner for a specific grantee or service provider.

(b) Individual student outcome information is required for all eligible individuals covered by this Act.

1. A qualifying agency or an approved training or service provider shall report student outcome and licensing information, including Social Security numbers, to the State Employment and Training Commission through the New Jersey Occupational Information Coordinating Committee.

2. Any entity that reports student outcome or licensing information to a qualifying agency or an approved training or service provider shall request that its students or licensees voluntarily provide their Social Security numbers. Such request shall state that:

- i. The disclosure of the Social Security number is voluntary;
- ii. The Social Security numbers will be used by the NJOICC and SETC to prepare a labor demand list, to establish standards for training and job placement, and to evaluate the effectiveness of programs and services under the State's workforce investment system, and for other purposes as determined by the Commissioner; and

iii. The NJOICC and SETC are authorized to access the files and records of other State agencies which administer or fund employment and training programs by N.J.S.A. 34:15C-6(h) and may request the voluntary disclosure of Social Security numbers through the Commissioner of Labor's authority under N.J.S.A. 34:15B-40 and 34:15D-8, provided such request is made in accordance with the Privacy Act, 5 U.S.C. §552(a)(note)(b).

3. The information required by this subsection shall be provided on a schedule to be determined and published by the NJOICC and the SETC.

#### 12:23-10.4 Disclosure of information

(a) Information collected by the NJOICC from qualifying agencies or from approved training or service providers will only be utilized for authorized governmental purposes. The NJOICC will only use aggregate statistical summaries of individual data in assessing or evaluating any program.

(b) The SETC and NJOICC will not publish or otherwise release information which could identify any person.

(c) The SETC and NJOICC will deny access to any correspondence, documents or data information where non-disclosure is necessary to protect the public interest.

#### 12:23-10.5 Performance standards and evaluation

(a) Performance standards shall be established for all training programs including basic skills training programs. Performance standards shall be established in accordance with the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System.

(b) The State Employment and Training Commission shall review and evaluate the operations of programs supported by the New Jersey Employment and Workforce Development Act, with special consideration to how these programs assist in the implementation of the goals of the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor regarding its findings.

(a)

### DIVISION OF LABOR STANDARDS AND SAFETY ENFORCEMENT

#### High Voltage Lines

#### Readoption with Amendments: N.J.A.C. 12:186

Proposed: April 15, 2002 at 34 N.J.R. 1529(a).

Adopted: May 24, 2002 by Albert G. Kroll, Commissioner,

Department of Labor.

Filed: May 24, 2002 as R.2002 d.194, without change.

Authority: N.J.S.A. 34:6-47.1 et seq.

Effective Dates: May 24, 2002, Readoption;

June 17, 2002, Amendments.

Expiration Date: May 24, 2007.

#### Summary of Hearing Officer's Recommendation and Agency Response:

A public hearing on the proposed readoption with amendments was held on May 13, 2002 at the Department of Labor, John Fitch Plaza, Trenton, New Jersey. Frederick S. Cohen, Regulatory Officer, was available to preside at the hearing and to receive testimony. However, no one appeared to give testimony on the proposed amendments. As a result, the hearing officer recommended that the proposed amendments be adopted without change. The public hearing record may be reviewed by contacting Frederick S. Cohen, Regulatory Officer, Office of Regulatory Services, Office of the Commissioner, Department of Labor, PO Box 110, Trenton, New Jersey 08625-0110.

#### Summary of Public Comment and Agency Response:

No comments were received.



#### Federal Standards Statement

Federal regulations regarding high voltage proximity were not consistent with the New Jersey High Voltage Proximity Act and these rules. In order to provide consistency between the Federal and State standards regarding specific proximity restrictions, all references in this subchapter to "six feet" have been amended to "10 feet" pursuant to 29 U.S.C. §§1910.33 and 1926.500. The standards and requirements set forth in this rulemaking are consistent with, and do not exceed, those imposed by Federal law, therefore, a Federal standards analysis is not required.

Full text of readoption can be found in the New Jersey Administrative Code at N.J.A.C. 12:186.

Full text of the adopted amendments follows:

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 12:186-1.2 Scope

(a)-(b) (No change.)

(c) When applied to railway systems, the exceptions in (a) and (b) above shall be construed as permitting operation of standard rail equipment normally used in the transport of passengers or freight, or both, and the operation of relief trains, or other equipment in emergencies, or in maintenance of way service, at a distance of less than 10 feet from any high voltage conductor of such railway system.

(d) The Act and this chapter shall prohibit normal repair or construction operations at a distance of less than 10 feet from any high voltage conductor by other than properly qualified and authorized persons or employees under the direct supervision of an authorized person who is familiar with the hazards involved in such activities, unless there has been compliance with all of the applicable safety and warning provisions of the Act as embodied in this chapter.

(e) (No change.)

### SUBCHAPTER 2. DEFINITIONS

#### 12:186-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Trained spotter" means an employee, designated by the employer, with employer documented training in the requirements of the New Jersey High Voltage Proximity Act and related rules, OSHA regulations for working in proximity to high voltage lines, and other task specific training as determined necessary by the employer to assist in the safe operation of a crane. The spotter shall not perform any other duties while acting as the spotter.

### SUBCHAPTER 3. VIOLATIONS

#### 12:186-3.1 Violations; generally

(a) A violation of the Act shall occur when an employer or supervising agent of an employer shall require or permit an employee to participate in the operation, erection, transportation, handling, or storage of any tools, machinery, equipment, supplies, materials, or apparatus or the moving of any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building, to come within 10 feet of a high voltage line; or

2. To participate in any activity which would cause the employee to come within 10 feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with high voltage line(s), by promptly notifying the owner or person in charge of the high voltage line(s), and to de-energize such high voltage line(s) and ground it where necessary;

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration thereof; or

iii. For the purposes of this section related to the High Voltage Proximity Act, N.J.S.A. 34:6-47 et seq., the utilization of a trained spotter or spotters for crane operations as appropriate, and the proper grounding of the crane, shall be considered to be an effective method, pre-approved by the Commissioner, to meet the requirements of the Act. Any contractor, employer, or supervising agent of a contractor or employer taking such action shall be deemed to be in compliance with the consultation requirements of the Act and this chapter. All other requirements of the Act and this chapter shall remain in effect.

(b) No person shall operate, erect, transport, handle or store any tools, machinery, equipment, supplies, materials, or apparatus, or move any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building to come within 10 feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with high voltage line(s), by promptly notifying the owner or person in charge of the high voltage line(s), and to de-energize such high voltage line(s) and ground it where necessary;

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration thereof; or

iii. For the purposes of this section related to the High Voltage Proximity Act, N.J.S.A. 34:6-47 et seq., the utilization of a trained spotter or spotters for crane operations as appropriate, and the proper grounding of the crane, shall be considered to be an effective method, pre-approved by the Commissioner, to meet the requirements of the Act. Any contractor, employer, or supervising agent of a contractor or employer, taking such action shall be deemed to be in compliance with the consultation requirements of the Act and this chapter. All other requirements of the Act and this chapter shall remain in effect.

(c) In no case shall the required 10-foot clearance be provided by moving or displacing any conductor, except where the conductor is relocated temporarily pursuant to arrangements made with the owner or person in charge of the high voltage line.

#### 12:186-3.2 Warning sign requirement

(a) It shall be a violation of the Act if an owner, agent, lessee, bailer, user or employer who is responsible for the operation of equipment capable of coming in contact with a high voltage line in the course of its operation, fails to post and maintain, in plain view of the operator on each piece of such equipment, a durable warning sign which shall be legible at a distance of 12 feet and which shall read: "Unlawful to operate this equipment within 10 feet of high voltage lines." Regarding the posting of warning signs, "equipment" includes, but is not limited to, any crane, fire apparatus, loaders, haulage vehicles, manlifts, crawlers, backhoes, derricks, and any other equipment that may be physically or remotely operated that is capable of coming in contact with high voltage lines.

(b) (No change.)

(c) (No change in text.)